

Remarks/Arguments:

Claims 1-33 were pending in the application, with claims 20-33 withdrawn from consideration. With this amendment, claims 20-33 are canceled and new claim 34 is added. Claims 1-19 and 34 are therefore pending in the application.

Support for new independent claim 34 can be found, for example, in claim 1 as originally filed and in the specification at paragraph 0040 and 0061.

In the Office Action issued August 1, 2007, claims 1-7, 16 and 17 were rejected under 35 U.S.C. § 103(a) as unpatentable over U.S. Patent No. 4,906,243 ("Dravland") in view of U.S. Patent No. 7,011,653 ("Imsangjan"). Claims 8-13, 18 and 19 were rejected under 35 U.S.C. § 103(a) over Dravland in view of Imsangjan and further in view of U.S. Patent Application Publication No. 2002/0151864 ("Otsubo"). Claims 14 and 15 were rejected under 35 U.S.C. § 103(a) as unpatentable over Dravland in view of Imsangjan and further in view of U.S. Patent No. 5,843,056 ("Goode"). Applicants respectfully traverse the rejections and respectfully submit that the currently pending claims are patentable over the cited references for at least the reasons set forth below.

Response to Rejections

In addressing Applicants' prior response submitted September 17, 2007, the Office, in the Advisory Action dated October 12, 2007, has indicated it has maintained the rejections of claims 1-19. Specifically in the Advisory Action, the Office states that "the present claims do not further disclose in what way the edge portions of the leg openings complement each other." (Advisory Action, page 2) The Office takes the position that the leg openings of Dravland "complement each other because the curve of the back edge portion cooperates with the front edge portion to form a leg opening that encircles the wearer's leg." (Advisory Action, page 2). The Office concludes that "[t]ogether, the edge portions form a complete leg opening, and therefore complement each other." (Advisory Action, page 2).

Contrary to the Office's assertions, Applicants respectfully submit that the Office has not established a *prima facie* case of obviousness because the combination of Dravland and Imsangjan fails to teach, disclose or suggest each and every element of Applicants' claimed invention. As set forth in M.P.E.P. § 2143, among the criteria required to establish a *prima facie* case of obviousness, "the prior art reference (or references when combined) must teach or

suggest all the claim limitations." Specifically, Applicants submit that neither Dravland nor Imsangjan, either alone or on their combination, teaches, discloses or suggests the feature of said concave edge portion of one of said leg openings being of complementary shape to said convex edge portion of said one of said leg openings, said concave edge portion of the other of said leg openings being of complementary shape to said convex edge portion of said other of said leg openings. Applicants submit that the Office's characterization of this feature and the reliance on Imsangjan is improper.

In the Advisory Action, the Office asserts that the claims do not disclose in what way the edge portions of the leg openings complement each other. Applicants submit, however, that the term "complementary shape" is clear from the specification. Specifically, at paragraph 0040, the specification states,

As will be discussed later, the front and rear sections 22 and 24, respectively, are created at the same time from a single web (of either single ply or layer or multiple plies or layers) that is severed longitudinally along a single line, with the line forming the lower edge of the front section and the lower edge of the rear section. Thus, the two sections are of complementary shape. (emphasis added).

As set forth in the M.P.E.P., "[w]here an explicit definition is provided by the applicant for a term, that definition will control interpretation of the term as it is used in the claim." See M.P.E.P. § 2111.01(IV) (citing *Toro Co. v. White Consolidated Industries Inc.*, 199 F.3d 1295, 1301, 53 USPQ2d 1065, 1069 (Fed. Cir. 1999) (meaning of words used in a claim is not construed in a "lexicographic vacuum, but in the context of the specification and drawings")). As disclosed in Applicants' specification, the term "complementary shape" is used to describe the shape of the lower edges of the front and rear sections that are formed when the single web is severed longitudinally along a single line. The contours of the lower edge of the front and rear sections, as defined in the claims, are thus complementary in shape to one another along the single cut-line. This is also described at paragraph 0061, which states,

The web W shown in FIG. 4 is fed longitudinally in the direction of the arrow shown therein so that its leading end reaches a slitting station. The slitting station includes a knife or slit (not shown) for severing the web W into two complementary shaped sections that will become the front section 22 and the rear section 24. (emphasis added).

Further, because "the front section 22 and rear section 24 are of complementary shape they can be made at one time without any material wastage." (para. 0067).

Rather than interpret the claims according to Applicants' specification, the Office instead applies an unreasonably broad interpretation of the term "complementary shape." According to the Office, because the curve of the back edge portion of Dravland's article "cooperates" with the front edge portion and the edge portions "form a complete leg opening," Dravland's front and back portion's "complement" each other. This clearly stretches the meaning of the term "complementary shape" beyond what was intended by the Applicants and altogether ignores Applicants' use of the term as defined in the specification. Applicants contend that the Office's interpretation is improper in that it is inconsistent with the context of the specification and figures.

When the term "complementary shape" is properly construed, Applicants submit that Dravland fails to disclose this feature. As disclosed in Dravland, the edge of the front section 10c does not form any shape which is complementary to any shape formed by the edge of the rear section 10a. As noted in the Applicants' prior response, Figure 1 of Dravland shows that front section 10c comprises substantially "straight" side edges which extend from the crotch region to the waistband. On the other hand, the side edges of the rear section 10a, which comprises a majority of the leg opening, clearly have an arcuate curvature.

Consequently, the side edges of the rear section 10a form a shape which is decidedly different from the shape formed by the side edges of the front section 10c. Therefore, the corresponding edge portions of the leg openings in Dravland do not form complementary shaped front and rear portions.

Like Dravland, Imsangjan also does not provide an article having complementary shaped front and rear portions. For example, as shown in Figure 4 to which the Office cites, the front portion cannot be said to be of complementary shape to its rear portion, when the term "complementary shape" is properly construed. As shown in Figure 4, each of curved edges 66 and 67 are concave, and therefore, not of complementary shape, as defined in the specification.

Moreover, even in the proposed or hypothetical combination of Dravland and Imsangjan, the resulting product having the front portion of Imsangjan would not also result in the product also having a complementary shape to the rear portion of Dravland. One of ordinary skill in the art would have to modify Dravland and/or Imsangjan to include both a concave recess in the front/upper leg openings and a convex projection in the rear/lower leg openings in the same article. It would also further require modifying the references to provide complementary

shaped front and rear portions with no reason or support in Dravland or Imsangjan for doing so. Also, modifying Dravland with Imsangjan to achieve complimentary shaped front and rear sections would also require changing the way the front and rear sections of the Dravland articles are attached together. Applicants submit that such modifications of the references would not be obvious to one of ordinary skill in the art based on the disclosures of Dravland and Imsangjan.

For at least these reasons, claims 1-7, 16 and 17 are patentable over the Dravland and Imsangjan, either alone or when combined.

The Office rejects claims 8-13, 18 and 19 as obvious over Dravland in view of Imsangjan and further in view of Otsubo, as well as claims 14 and 15 as obvious over Dravland in view of Imsangjan and further in view of Goode. Applicants respectfully submit that at least for the reasons noted above, claims 8-13, 14, 15, 18 and 19 are patentable over these cited references, but may be separately patentable for additional reasons as well. Moreover, Applicants submit that neither Otsubo nor Goode make up for the deficiencies of Dravland and Imsangjan. Neither Otsubo nor Imsangjan includes the feature of said concave edge portion of one of said leg openings being of complementary shape to said convex edge portion of said one of said leg openings and said concave edge portion of the other of said leg openings being of complementary shape to said convex edge portion of said other of said leg openings.

New Claim 34

New independent claim 34 includes the feature of the concave edge portion of one of said leg openings and the convex edge portion of said one of said leg openings shaped from a single cut line. As shown in the embodiment illustrated in Figures 1 and 2, the contours of the concave edge portion 50 of one of the leg openings and the convex edge portion 62 of one of the leg openings are shaped from a single cut line. For example, as shown in Figure 5, the edges of the leg opening are formed along single cut line C. The shapes of the front and rear portions formed along this single cut line are the respective concave and convex edges of the front and rear portions. Applicants submit that the shape formed along the single cut line is neither disclosed nor suggested in the cited references, either alone or in their combination. For at least this reason, claim 34 is patentable over the cited references.

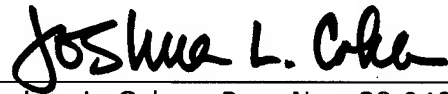
Appln. No.: 10/617,218
Amendment Dated October 31, 2007
Reply to Office Action of October 12, 2007

TCO4-154US

Conclusion

In view of the amendments and arguments set forth above, Applicants respectfully submit that the pending application is in condition for allowance. Notice to this effect is earnestly solicited.

Respectfully submitted,



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C.F.R. §1.34

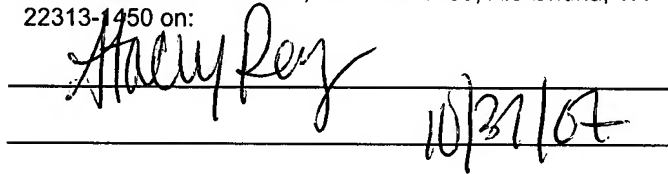
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Dated: October 31, 2007

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